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## SALT LAKE CITY COUNCIL STAFF REPORT

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Date: May 1, 2007

FROM: Lehua Weaver

RE: An Ordinance amending section of the City Code relating to Storm Water Sewer discharge and establishing related permits

Affected  
Council Districts: Citywide

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The attached transmittal addresses changes to the Storm Water portion of the City Code. There are three primary changes. First, the Department of Public Utilities has been notified by the Environmental Protection Agency that part of their enforcement of activities affecting storm water collection needs to be established in ordinance. Secondly, the proposed ordinance changes would address issues between neighboring properties where storm water discharge is not properly handled. Lastly, in conjunction with these changes, the Department is recommending that the portions of the City Code that relate to storm water functions be reorganized. At the time that the storm water utility was established, it was written into the Division of City Code relating to sanitary sewer service. These changes will move this program to a separate section for Storm Water Sewer System.

### **KEY ELEMENTS.**

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#### **I. Changes relating to the permitting of discharge**

##### **A. Overview / Background**

As discussed in the attached transmittal, the EPA conducted an audit of the City's Storm Water program, which controls and monitors discharge into the City's Storm Water system. The report concluded that while the actions of the City to monitor these activities were correct, the authority to perform these actions must be established by ordinance. As indicated in the ordinance, "certain industrial and construction activities that may impact storm water", would require a discharge permit.

Regulation of discharge into the City's Storm Water system is important for protection from possible contamination and to keep up to date on activities impacting the system to protect Salt Lake City residents. The Storm Water system collects not only storm water, but snow melt, and

surface runoff and drainage. It is the regulation of the surface runoff and drainage that needs to be monitored by this permitting process.

## **B. Permit Process / Details**

A permit would be required for any industrial activity, including small construction activity (over one acre) and would monitor the discharge of materials into the City's storm water system. This permitting process is consistent with State and Federal Regulations regarding storm water runoff. This includes the National Pollutant Discharge Elimination System (NPDES) and the Utah Pollutant Discharge Elimination System (UPDES), both of which require similar permits for discharge into the storm water system. The City's permit application would mirror the NPDES / UPDES application requirements and would be satisfied by the information submitted for the NPDES / UPDES permit.

A UPDES / NPDES permit is generally required for construction and industrial activities already over five-acres. This would be a new requirement for activities on property between one and five acres. However, those activities have previously had to comply with the Clean Water Act regulations.

If adopted, the permitting process would include an application to be submitted to the Director of Public Utilities or his designee, and a set fee not to exceed \$125 will be applied. The amount reflects an estimation of recapturing costs. There are other fees that the Department sets in this manner, such as a survey inspection, shut-off fees, etc.

Requirements of the permit also include allowing access to the property in question for inspections. The proposed ordinance amendments would permit the possibility of requiring the applicant to install monitoring equipment.

Issuance of the permit would require coordination with the Building Services Division so that construction permits are not issued without consideration of this City Discharge Permit.

## **C. Penalties and Fines**

The proposed ordinance outlines the fines associated with violations, which would generally include lack of a permit, or the discharge of pollutants or contaminants into the storm water system.

Fines would not exceed \$10,000 per violation per day as determined by the Director. In addition, penalties would include costs associated with

remediation of the situation. *The Council may wish to consider establishing a set fine amount as is done for zoning violations.*

Late payment penalties are proposed to be 10% after 60-days of non-payment and 1% per month thereafter.

In the event of a dispute of the fine, the party responsible for the unlawful discharge would submit a letter of dispute to the director, and a hearing will be conducted to consider the dispute. This process is similar to disputes related to zoning violations, where an Administrative Hearing Officer is identified to consider complaints and either reduce fines or set up a payment schedule.

## **II. Changes related to neighbor-to-neighbor discharge issues**

### **A. Overview**

There have been some reported cases of neighbor disputes relating to improper discharge from one property to another. Currently, there is not a section of City Code that addresses this type of activity.

### **B. Penalty**

The proposed ordinance amendments include enacting a section making it a class B misdemeanor to “knowingly, intentionally or recklessly” direct the flow or discharge of storm water flow onto property without the legal right to do so. *The Council may wish to ask whether treating this as a criminal issue is more effective than imposing civil fines.*

Enacting this section will provide the Department with a tool in order to enforce in this type of situation.

## **III. Changes related to re-codification of the storm water utility**

When the Storm Water Utility was established, it was included in the section of the *Salt Lake City Code* pertaining to the sewer utility. These proposed changes would pull the pieces related to storm water into its own Division of the Code.

LEROY W. HOOTON, JR.  
DIRECTOR

# SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES  
WATER SUPPLY AND WATERWORKS  
WATER RECLAMATION AND STORMWATER

ROSS C. "ROCKY" ANDERSON  
MAYOR

## COUNCIL TRANSMITTAL

Date: April 25, 2007

To: Lyn Creswell, Chief Administrative Officer

From: LeRoy W. Hooton, Jr., Director Public Utilities

Re: Proposed Ordinance governing Storm Water Sewer System

**Discussion:** EPA conducted an audit of our Storm Water Program and found that although we have successfully accomplished the goals of the program we had done so without the specific legal enforcement authority to do so. This proposal, modeled after our existing Industrial Pretreatment Ordinance, will provide the department the authority to apply enforcement actions for prohibited discharges and other prohibited conduct, as required by the EPA.

The ordinance includes language that addresses discharges from private property, and moves the storm water fees, without alteration, into the storm water section. This ordinance also consolidates existing Storm Water Sewer regulations that were scattered through different sections of ordinance and adds pertinent sections to come into conformance with State and Federal regulations. This proposed ordinance is in response to Federal regulations that require permitting for certain industrial and construction activities that may impact storm water, and establishes the legal authority to enforce the requirements of those permits. It is an extension of existing ordinance and does not change conditions of the Storm Drain Enterprise Fund. With the establishment of this ordinance, we will separate ordinances addressing wastewater sewers and storm water sewers.

**Amend:** Title 2 and Title 17 of the Salt Lake City Code

### **Reorganization and amendments:**

#### **Section 1:**

Section 2.08.100 amends Public Utilities functions to include irrigation canals and related facilities, adds water exchange agreements and separates the sanitary and

storm sewers as independent entities. The storm sewer division is identified as an independent enterprise fund, subject to collection, accounting and expenditure in accordance with existing fiscal policy.

**Section 2:**

Title 17 is reorganized and a new Division III in Title 17 creates a "Storm Water Sewer System" containing all provisions relating to storm sewers from Chapters 75 through 91 of Title 17.

**Section 3:**

This section lists the chapters created within Division III.

**Section 4:**

A new section 17.75.100 is enacted, creating a Salt Lake City Storm Water Control Ordinance.

**Section 5:**

17.75.010 is repealed and reenacted, with reorganization and renumbering, as Section 17.75.200.

**Section 6:**

17.75.300 is enacted and establishes the authority for the adoption of the ordinance.

**Section 7:**

17.75.400 establishes the responsibility for administration of the ordinance.

**Section 8:**

17.75.020 is renumbered as 17.78.100, and is amended to clarify definitions.

**Section 9:**

17.75.030 is repealed, and the content is reestablished in Section 11 of this ordinance.

**Section 10:**

17.75.040 is repealed, and the content is reestablished in Section 11 of this ordinance.

**Section 11:**

17.75.050 is renumbered as 17.81.100 and amended to establish and to include the description of the storm sewer utility.

**Section 12:**

17.75.60 is repealed but re-established in Section 18.

**Section 13:**

17.75.50 is renumbered as 17.81.200 and amended for clarification.

**Section 14:**

17.75.080 is renumbered as 17.81.300 and amended to address billing and collection, in addition to isolating the storm water sewer utility enterprise funds from all other City funds for use in accordance with existing City fiscal policy.

**Section 15:**

17.16.040(B) is renumbered as 17.81.400 without change. New sections 17.81.400 (B), (C) and (D) address storm water impact fees for new development and rules on their collection, clarification of rules governing improvements intended to be maintained by the City, clarification of rules on storm water facilities remaining the responsibility of the property owner, and development expenses thereof.. This change is to separate the storm water fee from the water fees into this new storm water sewer utility ordinance. The impact fee has been increase to reflect the proposed change in the Public Utilities budget request.

**Section 16:**

17.16.040 is amended by renumbering. Originally this section included water and storm water connection fees, isolating only the storm water fees to this new ordinance required renumbering of the original section.

**Section 17:**

17.75.090 is renumbered as 17.81.400 and amended for clarification.

**Section 18:**

17.84.100 through 17.84.800 are added covering Prohibited Discharges, Preventing Accidental Discharges and information on obtaining a City Discharge Permit. It includes language on prohibited discharges and establishes the enforcement authority as required by the EPA audit.

17.84.100 addresses prohibited discharges and connections.

17.84.200 requires the use of Best Management Practices (BMPs) to prevent accidental discharges.

17.84.300 describes existing conditions that require obtaining a City Discharge Permit

17.84.400 describes the permit application process. It allows the Director to establish an application fee, not to exceed \$125, and caps evaluation and department review at 5 days. 17.84.500 establishes the right of inspection entry, as required by EPA

17.84.600 establishes the requirement for the use of BMPs to control prohibited discharges.

17.84.700 establishes a requirement for the property owner to maintain any water course through the property in a condition that is litter free, and free of any obstacle that impedes flow, or poses a potential to pollute.

17.84.800 requires any person responsible for a facility to identify, contain, clean up and notify the department of any event that causes or may cause a pollutant to enter a waterway, and to prevent its reoccurrence

through employee notification and training, whether or not a permit is issued to the facility.

17.84.900 makes the release or discharge of water onto any property without permission unlawful. This section is designed to assist in the prevention of storm water releases onto neighboring property, without legal authority.

**Section 19:**

17.87.100 through 17.87.950 new sections covering notification of violation, consent orders, show cause hearing, compliance orders, cease and desist orders and allowable actions to reestablish compliance. This section is modeled after existing wastewater pretreatment ordinance, 17.68: Enforcement Remedies.

**Section 20:**

17.91.100 through 17.91.200 are added covering severability and ultimate responsibility.

**Section 21:**

Effective date and signatures.

**Availability of Funds:** 2006/2007 Budget

**Recommendation:** That the Council considers adopting the proposed ordinance changes and reorganization below to provide for an ordinance addressing the use of Storm Water Sewer System.

This ordinance will create a new Division III in Title 17 entitled "Storm Water Sewer System", existing Division I and II deal with water and sewer, respectively. New Division III of Title 17 shall include all Salt Lake City Code provisions relating to the City's storm sewer utility system, including Chapters 75 through 91 of Title 17.

**Contact Person:**

Florence Reynolds (483-6864)  
Water Quality and Treatment Administrator  
Public Utilities Department

SALT LAKE CITY ORDINANCE  
No. \_\_\_\_\_ of 2007  
(Amending Title 2 and Title 17 of the Salt Lake City Code,  
relating to the Storm Water Sewer System)

\* \* \*

AN ORDINANCE AMENDING TITLE 2 AND TITLE 17 OF THE SALT LAKE CITY CODE, RELATING TO THE STORM WATER SEWER SYSTEM; REQUIRING A CITY DISCHARGE PERMIT FOR CERTAIN ACTIVITIES RESULTING IN DISCHARGE TO THE STORM WATER SEWER SYSTEM; AUTHORIZING ENFORCEMENT ACTION, FINES AND PENALTIES FOR PROHIBITED DISCHARGES AND OTHER PROHIBITED CONDUCT; AND RELATED MATTERS.

\* \* \*

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Section 2.08.100 of the Salt Lake City Code is hereby amended to read as follows:

2.08.100 Department of Public Utilities:

A. Functions: The department of public utilities shall have charge of and be responsible for:

1. The acquisition, transportation, storage, treatment and distribution of all irrigation, raw and potable water for the city and its designated service areas, including, but not limited to:

a. All farms and watershed lands, so far as the same affect the water supply of the city;

b. All water sources from which the domestic supply is or may be taken;

c. All reservoirs, conduits, tanks, and water mains, city fire hydrants located within the city, and appurtenant equipment and properties;

d. All irrigation gates, dams, flumes, ditches, canals, and reservoirs and related facilities necessary for the proper control and distribution of irrigation water within the corporate city limits or for which the city is acting as distributing agent, or in connection with any water exchange agreements to which the city is a party; and



2. Keeping records of the location of all principal gates, dams, flumes, ditches, canals and reservoirs and water rights owned by the city, which records shall show the nature of construction, the length and capacity of the principal canals and ditches, and such other information as may be necessary to enable a proper understanding of the city's rights from an examination thereof; and

3. The ownership, operation and maintenance of a sanitary sewer utility system for the collection, treatment, and disposal of all wastewater (sanitary sewage), storm water and floodwaters generated within the city, including the facilities necessary therefor; and

4. The ownership, operation and maintenance of a storm water sewer utility system for the collection and disposal of storm water and floodwaters generated or collected within the city.

B. Water Boards, Miscellaneous: The director of the department of public utilities shall represent the city, if consistent with law, on the various water or sewer boards, commissions and similar administering bodies on which the city is entitled to sit by virtue of state law, contractual agreement or bylaws of such bodies.

C. Enterprise Funds: The water, sanitary and the sewer and storm water sewer divisions of the department of public utilities shall be operated as separate enterprise funds. The collection, accounting and expenditure of each shall be in accordance with existing fiscal policies of the city. ~~Storm sewer and flood control shall be part of and financed by the sewer enterprise fund until an ordinance can be prepared and enacted providing for fees for drainage and flood control service.~~

SECTION 2. Title 17 of the Salt Lake City Code is hereby reorganized to include, and there is hereby created within such Title 17, a new Division III entitled "Storm Water Sewer System." Division III of Title 17 shall generally include all Salt Lake City Code provisions relating to the City's storm water sewer utility system, including Chapters 75 through 91 of Title 17.

SECTION 3. Division III of Title 17 of the Salt Lake City Code is hereby subdivided to include, and there are hereby created within such Division III, the following Chapters:

17.75                      General Provisions

17.78	Definitions
17.81	Storm Water Sewer Utility; Establishment and Funding
17.84	Discharges Into City Storm Water Sewer System
17.87	Enforcement
17.91	Miscellaneous

SECTION 4. There is hereby enacted a new Section 17.75.100, to read as follows:

17.75.100 Short Title.

The ordinance codified in this Division III shall be known collectively as the Salt Lake City Storm Water Control Ordinance. References to "this ordinance" shall be deemed to refer to and include all sections contained in Chapters 17.75 through 17.91, inclusive.

SECTION 5. Existing Section 17.75.010 is hereby repealed in its entirety and reenacted as Section 17.75.200, to read as follows:

~~17.75.010 Storm Water Sewer Management Services:~~

~~A. Findings On Storm Water Runoff Harm: The City Council has determined that the City's physical growth and urban development has and will continue to increase the amount of storm water runoff collected and routed, using the City's storm water drainage system and facilities. The City Council finds that storm water runoff causes property damage and erosion, carries concentration of nutrients, chemicals, heavy metals, oil, and toxic materials into receiving waters and groundwaters; degrades the integrity of City streets, curbs, gutters and other infrastructure conveying storm water; reduces the citizens' access to emergency services and imposes hazards to both life and property. Additionally, the Federal Government has established, through its Clean Water Act, environmental protection regulations for water quality and NPDES permit requirements for the City's discharge of its storm water into receiving waters.~~

~~B. Purposes And Objectives: In view of the foregoing, the purposes and objectives of this Chapter are to:~~

~~1. Provide and maintain a storm water sewer system for handling storm water runoff;~~

~~2. Provide fair, equitable and nondiscriminatory rates and charges for a storm water sewer system and related services which will generate sufficient~~

~~revenues for operating, improving and maintaining the storm water sewer utility at a level commensurate with storm water sewer management needs. The rates and charges shall be set by considering needed revenues and the amount of impervious surface on developed parcels and the respective storm water runoff characteristics of the parcel, and apply said rates and charges consistently for the same class of customers; and~~

~~3. Establish a policy that present and future rates and charges for this service should be fixed with consideration of the difference in cost fairly allocated to the various customers based upon such factors as: the intensity of development of the parcel; the types of development on the parcel; the cost of maintenance, operation, repair and improvements of the various parts of the utility; the quantity and quality of the runoff generated; and other factors which present a reasonable basis for distinction, and which will allow for management of the storm sewer system in a manner that protects the public health, safety and welfare.~~

~~C. — Method Of Determining Contribution Of Storm Water:~~

~~1. Contributions of storm water from nonresidential properties and residential properties larger than fourplexes have been determined through aerial photography and land surface evaluation and measurement of the number of square feet of impervious surface.~~

~~2. Contributions of storm water from residential parcels up to and including fourplexes have been determined through a statistically significant sample of impervious areas within these classifications.~~

17.75.200 Findings and Purposes.

A. Findings on Storm Water Runoff Harm. The city council finds that storm water runoff has the potential for causing property damage and erosion; carrying concentrations of nutrients, chemicals, heavy metals, oil and toxic materials into receiving waters and groundwater; degrading the integrity of city streets, curbs, gutters and other infrastructure; reducing residents' access to emergency services; and imposing other hazards to both life and property. For these and other reasons, storm water runoff has the potential for adversely impacting the health, safety, property, recreational opportunities and general welfare of the community. The city council has determined that the potential for such negative impacts will increase as the amount of storm water runoff increases due to the city's physical growth and urban development.

B. State and Federal Regulation. The federal government has established, through the Clean Water Act, regulations regarding storm water runoff for the protection of receiving waters. The State of Utah has also enacted the Water Quality Act, together with related regulations. These federal and state laws and regulations are administered through the Utah Department of Environmental Quality and include requirements that the city obtain, and abide by the provisions

of, a UPDES permit for the city's discharge of storm water runoff into receiving waters.

C. Purposes and Objectives. In view of the foregoing, the purposes and objectives of this ordinance are to:

1. Provide for and maintain a storm water sewer system for collecting and disposing of storm water runoff;

2. Establish the inspection, surveillance and monitoring procedures, and all related rules and regulations, necessary to regulate discharges into the storm water sewer system, and to establish the legal authority to enforce compliance with such rules and regulations; and

3. Provide fair, equitable and nondiscriminatory rates and charges which will generate sufficient revenues to construct, operate, improve and maintain the storm water sewer system at a level commensurate with storm water sewer management needs. It shall be the policy of the city that present and future costs of operating the storm water sewer system shall be fairly allocated among the various users of the storm water sewer system through the establishment of rates and charges based upon such factors as the intensity of development of the parcel; the types of development on the parcel; the amount of impervious surface on the parcel; the cost of maintenance, operation, repair and improvements of the various parts of the system; the quantity and quality of the runoff generated; and other factors which present a reasonable basis for distinction, and which will allow for management of the storm water sewer system in a manner that protects the public health, safety and welfare.

SECTION 6. Section 17.75.300 is hereby enacted to read as follows:

17.75.300 Authority.

This ordinance is adopted under the authority of the Utah Water Quality Act, the federal Clean Water Act and the rules and regulations promulgated thereunder relating to storm water discharges, as well as certain requirements set forth in the city's UPDES permit for storm water discharges, issued by the Utah Department of Environmental Quality. Specifically, Section 19-5-115(10), Utah Code Annotated, authorizes the city to enact and enforce rules and ordinances for the implementation of the Water Quality Act, including storm water discharges.

SECTION 7. Section 17.75.400 is hereby enacted to read as follows:

17.75.400 Responsibility for Administration.

The director shall be responsible for administering, implementing, and enforcing the provisions of this ordinance. Any powers granted or duties imposed

upon the director may be delegated by the director to persons in the employ of the city and under the supervision of the director.

SECTION 8. Section 17.75.020 is renumbered as Section 17.78.100, and is amended to read as follows:

17.78.100 Definitions:

For the purposes of this ordinance, the following words, terms and phrases shall have the following meanings:

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating practices, techniques, methodologies or other management practices that, through experience and research, have proven reliable to prevent or reduce pollutants from entering the storm water sewer system, and that are recognized, required, or accepted as BMPs under the Clean Water Act, the Water Quality Act, and related rules, regulations, guidance documents and storm water permits issued thereunder. BMPs shall be an integral part of a SWPPP as necessary for compliance with an NPDES or a UPDES permit, or a city discharge permit under this ordinance.

A. "City" means Salt Lake City Corporation, a municipal corporation of the State of Utah.

"City discharge permit" means a permit to discharge storm water into the city's storm water sewer system, issued pursuant to Section 17.84.400 of this ordinance.

"Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, including all related rules and regulations.

"Construction activity" means activities for which a UPDES General Construction Storm Water Permit, as defined in the rules promulgated under the Clean Water Act, must be obtained. These include construction activities such as clearing and grubbing, grading, excavating and demolition, that disturb one acre of land or more.

B. "Council" means the Salt Lake City Council.

"County" means the Salt Lake County, Utah.

~~C. "Customer" or "person" means any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the State or its departments, institutions, bureaus, agencies; county; city; political subdivision; or any other governmental or legal entity recognized by law.~~

"Department" means the city's department of public utilities.

~~D.~~ "Developed parcel" means any parcel which has been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area ~~thereon~~ that affects the hydraulic properties of the parcel.

~~E.~~ "Director" means the director of the department of public utilities, or the director's duly authorized designee.

"Discharge" means any addition or introduction of any pollutant into the storm water sewer system. Discharge includes any storm water runoff.

"Discharge permit" means and includes any permit regulating discharges into the storm water sewer system, including a UPDES permit, an NPDES permit and a city discharge permit.

"EPA" means the U.S. Environment Protection Agency.

~~F.~~ "Equivalent residential unit (ERU)" means a configuration of development, or impervious surfaces on a parcel, contributing runoff to the city's stormwater sewer system or which represents the estimated use of the system that is approximately equal to that contributed by a single-family residential parcel. A single-family residential parcel has been determined to contain an average of two thousand five hundred square feet of impervious surface. One ERU is equal to two thousand five hundred square feet of impervious surface area.

"Equivalent residential unit" or "ERU" means the unit of measurement of the magnitude of use of the storm water sewer system attributable to a developed parcel. One ERU is equal to the storm water runoff from a developed parcel containing two thousand five-hundred square feet of combined impervious surface area, in any configuration, which is the estimated contribution of storm water runoff from the average single-family residential dwelling unit and accompanying parcel of land.

~~G.~~ "Impervious surface" means that hard surface area of a developed parcel ~~which~~ that either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that which would be present under natural conditions. Impervious surfaces may include, but are not limited to: rooftops; concrete or asphalt paving; walkways; patios; driveways; parking lots or storage areas; trafficked gravel; or other surfaces which similarly impede the natural infiltration into the ground ~~or of~~ runoff of storm and surface water.

~~H.~~ "Nonpolluted," ~~when used in connection with water or any other referenced medium, means that such medium shall not have been contaminated with a pollutant, as defined in Section 17.32.420 of this chapter or its successor.~~

"Illicit connection" means any drain, pipe, connection or conveyance, whether on, above or below the surface, which is connected from a commercial or industrial land use to the storm water sewer system and which does not meet the requirements of the city, including without limitation the requirement that such connection or conveyance be documented in plans, maps or equivalent records and approved by the director.

"Industrial activity" means, generally, activity for which an NPDES permit or UPDES permit is required. Industrial activity is more particularly defined in 40 C.F.R. § 122.26(b)(14) and Utah Administrative Rule R.317-8-2.5, which definitions are incorporated herein by reference. Such activities include, by way of example, manufacturing, processing or raw materials storage at an industrial plant, and most construction activity on parcels of one acre and greater.

"National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing discharge permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the Clean Water Act.

"NPDES permit" means a permit issued by the EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

I. "On-parcel mitigation" or "mitigation" means ~~stormwater~~ storm water control facilities designed to city standards located on the parcel, which either ~~holds~~ hold runoff for a short period of time and ~~releases~~ release it to the ~~stormwater~~ storm water sewer system, or holds hold water for a considerable length of time and ~~dispers~~ disperses it by evaporation or infiltration into the ground.

"Operator" means, with respect to any industrial activity, the person or persons who either individually or taken together meet the following two criteria: (1) they have operational control over the site specifications (including the ability to make modifications in specifications); and (2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance with SWPPP requirements and any permit conditions.

J. "Parcel" means the smallest separately segregated unit or plot of land, with a person or persons identified as owner(s); ~~having boundaries, and surface area;~~ which is documented and given a property serial number by Salt Lake County ("county") the county.

K. ~~"National Pollutant Discharge Elimination System (NPDES) Storm Water Regulations" means the provisions of the Federal Clean Water Act establishing specific permit requirements for the control of stormwater discharges.~~

"Person" means any individual, partnership, co-partnership, firm, limited liability company, corporation, association, joint stock company, trust, estate, government entity or any other entity recognized by law, and any offices, departments, institutions, bureaus or agencies thereof.

"Pollutant" means anything that causes or contributes to pollution. Pollutant includes, without limitation: dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, toxic materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, recreational and agricultural waste discharged into water or into the storm water sewer system.

"Pollution" means the alteration, through the introduction of a pollutant, of the physical, thermal, chemical, or biological quality of, or the contamination of, any waters of the State or waters of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

"Premises" means any building lot, parcel, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

"Prohibited discharge" means any discharge prohibited by Section 17.84.100 of this ordinance.

"Responsible party" means (1) an operator; (2) a person who uses the storm water sewer system or discharges to the storm water sewer system, whether or not pursuant to a discharge permit; or (3) a person responsible for emergency response for a facility or operation.

~~L.~~ "Single-family residential parcel" means any parcel of land which is improved with a dwelling unit as defined by Section 17.72.030(2)(b) of ~~this title~~ the Salt Lake City Code.

"Small construction activities" means construction activities, including clearing, grading and excavating land, that result in the disturbance of equal to or greater than one acre and less than five acres of land, including projects of less than one acre that are part of a larger common plan of development or sale.

"State" means the State of Utah.

~~M.~~ "Stormwater" means water produced by storms, surface drainage, snow and ice melt, spring flows, groundwater and other water handled by the stormwater sewer system.

"Storm water" means (i) storm water runoff, (ii) snow melt runoff, and (iii) surface runoff and drainage from other sources which contains no pollutants.



"Storm Water Pollution Prevention Plan" or "SWPPP" means a plan required by a discharge permit which describes and ensures the implementation of the best management practices and activities to be implemented by a person or operator to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, the storm water sewer system and/or receiving waters to the maximum extent practicable.

"Storm water rules" means the rules promulgated by the State relating to storm water discharges, and set forth in Utah Administrative Rule R.317-8-3.9.

~~N. "Stormwater facilities" means any facility, improvement, development, property or interest therein made, constructed or acquired for purposes of controlling stormwater quantity and quality.~~

"Storm water sewer facilities" means any facilities comprising part of the storm water sewer system.

~~O. "Stormwater sewer system" means the city stormwater system comprised of stormwater facilities, streets and any other features which store, control, treat and/or convey stormwater.~~

"Storm water sewer system" means the city-owned and operated system of conveyances designed or used for collecting, storing, controlling, treating and/or conveying storm water. This system includes, but is not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made or altered channels, reservoirs or piped storm drains. This system does not include any part of the sanitary sewer system.

~~P. "StormwaterStorm water sewer utility" or "utility" means the utility created through this chapter in Section 2.08.100 of the Salt Lake City Code, which operates, maintains, regulates and improves stormwater storm water facilities and programs within Salt Lake Citythe city.~~

~~Q. "Undeveloped parcel" means any parcel which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area which affects the hydraulic properties of the parcel.~~

"Undeveloped parcel" means any parcel which is not a developed parcel.

"UPDES permit" means a permit issued by the Utah Department of Environmental Quality that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group or general area-wide basis.

"Utah Pollutant Discharge Elimination System" or "UPDES" means the program delegated to the State by the EPA pursuant to 33 U.S.C. § 1342(b) and Sections 19-5-101 to 123 of the Utah Code.

“Violation” means a violation of any provision of any storm water discharge permit, this ordinance or any order, rule or regulation issued or promulgated hereunder.

“Water Quality Act” means the statute codified at Section 19-5-101 et seq., Utah Code Annotated, as amended, including all related rules and regulations.

“Watercourse” means aqueducts, pipelines, natural or artificial streams or channels through or in which water at any time flows.

SECTION 9 Section 17.75.030 is hereby repealed.

~~17.75.030 Potential hazard declared.~~

~~The city council finds and declares that absent effective maintenance, operation, regulation and control, existing stormwater drainage conditions within the city constitute a potential hazard to the health, safety, welfare and property of the city inhabitants. All manmade stormwater facilities and conveyances, and natural stormwater drainage within the city's limits, except those included under authorization issued to counties by state law for management of certain stormwater runoff, constitutes the city's stormwater sewer system.~~

SECTION 10. Section 17.75.040 is hereby repealed.

~~17.75.040 Stormwater sewer utility created Responsibilities.~~

~~There is created and established a stormwater sewer utility to be known as a Stormwater Sewer Utility.~~

SECTION 11. Section 17.75.050 is hereby renumbered as Section 17.81.100, and is amended in its entirety to read as follows:

~~17.75.050 Ownership of city stormwater facilities and assets.~~

~~The city's storm sewer assets to be transferred to the utility shall be determined by the mayor, or the mayor's designee, and transferred to the utility. Until such transfer, the utility shall operate, maintain and improve all city storm sewer facilities used for the conveyance of stormwaters, through, under or over lands, watercourses, beginning at a point where stormwaters first enter the storm sewer system of the city and ending in each instance at a point where the stormwaters exit from the system. Governmentally owned streets, and stormwater facilities operated and maintained by, or for, the county shall not be deemed stormwater facilities.~~

17.81.100 Establishment of Storm Water Sewer Utility;  
Administration of Storm Water Sewer Facilities.

The storm water sewer utility has been established pursuant to Section 2.08.100, and is operated as a separate enterprise fund within the department of public utilities. All portions of the storm water sewer system (other than streets, curbs, gutters and sidewalks), shall be operated, managed and administered by the director within the storm water sewer utility.

SECTION 12. Section 17.75.060 is hereby repealed.

~~17.75.060 No polluted waters discharged to storm sewers.~~

~~The only substances dischargeable under this chapter into the city's storm sewer are stormwater, surface drainage, subsurface drainage, groundwater, roof runoff, cooling water or nonpolluted water. Such waters may be discharged only into storm sewers which have adequate capacity for the accommodation of such waters. Such discharged waters shall comply with the city's stormwater quality standards.~~

SECTION 13. Section 17.75.070 is hereby renumbered as Section 17.81.200, and is amended to read as follows:

~~17.75.070~~17.81.200 System of Rates and Charges.

A. There are hereby imposed storm water sewer service fees, rates and charges on the owner of each developed parcel of real property within the city, except (i) governmentally owned streets, and (ii) parcels on which are located stormwaterstorm water sewer facilities operated and maintained by, or for, the county. The charges shall fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of existing and future stormwaterstorm water sewer facilities.

B. ~~The utility's~~Residential service charges for use of the storm water sewer systemshall be as follows:

1. Single-family residential and duplex parcels, less than or equal to .25 acres; ~~these tier one residential parcels~~ shall constitute one ERU and are charged three dollars per month.
2. Single-family or duplex parcels greater than .25 acres; ~~these tier two residential parcels~~ shall constitute 1.4 ERUs and are charged four dollars and twenty cents per month (tier two).
3. All triplex and fourplex residential parcels shall constitute two ERUs and are charged six dollars per month (tier three).

C. Undeveloped Parcels. Undeveloped parcels shall ~~have no charges assessed against such parcels~~ not be assessed a storm water service charge.

D. Other Parcels. The charge for all other parcels shall be based upon the total square ~~feet~~ footage of measured impervious surface, divided by two thousand five ~~hundred~~ square feet, or one ERU, and rounded to the nearest whole number. The actual total monthly service charge shall be computed by multiplying the total ERUs for a parcel by the monthly rate of three dollars.

E. Credit for On-Parcel Mitigation. Nonresidential parcels ~~having constructed on parcel stormwater~~ with on-site storm water detention or retention facilities are eligible for a service charge credit upon ~~the person owning the parcel or the person's agent's application for such credit to the director~~ by the person owning the parcel, or such person's agent. The amount of credit, if any, for on-site detention or retention facilities is based on the following formula:

$$P = 0.25 + 0.70 (\text{factor}) + 0.05 (\text{Permit})$$

The foregoing symbols have the following meanings:

P	Percentage of total service charge to be applied to each parcel.
0.25	Represents ten percent for <del>public utilities</del> department administration cost plus fifteen percent for utility operation and maintenance costs (half of the estimated total cost for utility operation and maintenance).
0.70	Represents fifteen percent for utility operation and maintenance (half of the estimated total cost for utility operation and maintenance) plus fifty-five percent for a utility capital improvement program.
Factor	Restricted discharge (Qr) from a developed parcel divided by the peak discharge (Qp) from the same developed parcel which would result if the flow restriction facilities were not in place.
0.05	Represents five percent for NPDES- <del>stormwater</del> <u>storm water</u> permit for the parcel.
Permit	The rate adjustment which applies when the parcel has <u>aan</u> NPDES discharge permit from

the ~~state~~State, will be equal to zero. When the parcel is included in the city NPDES permit, this rate adjustment is equal to one.

1. Mitigation credit is available only for those nonresidential parcels whose storm water facilities meet the city's design and maintenance standards.

2. The director shall provide a complete on-site mitigation evaluation at the request and expense of the person owning the parcel, or the owner's duly authorized agent.

F. Low-income Abatement. A ~~customer~~person who owns a single-family residential parcel and is qualified for an abatement ~~of the minimum monthly water charge pursuant to the public utilities department's water abatement program~~Section 17.16.670 of the Salt Lake City Code shall be eligible for a fifty-percent reduction of the service charge for such parcel.

G. Non-service Abatement. A parcel which is not directly ~~or indirectly benefited~~served by the ~~stormwater~~storm water sewer utility shall be entitled to an abatement of the service charge for said parcel. In order to receive such abatement, the owner, or the owner's agent, shall apply, in writing, to the director, ~~or the director's designee~~, pursuant to ~~Section 17.75.090~~17.81.400.

SECTION 14. Section 17.75.080 is hereby renumbered as Section 17.81.300, and is amended to read as follows:

~~17.75.080~~17.81.300 Billing and collection.

A. Billing. ~~In the case of developed parcels, The the~~ department of ~~public utilities~~ shall cause billings for ~~stormwater~~storm water sewer utility services to be ~~rendered~~mailed periodically to the person who ~~is the owner of the parcel, or the owner's agent, who has signed for water and sanitary sewer service to the parcel.~~ The amounts to be billed shall be included on the existing department of ~~public utilities~~ bill as a separate line item. In the case of undeveloped parcels, A ~~stormwater~~storm water only billing will be sent to ~~those person who are owners of parcels within the city, but are not currently city utility customer~~the owner of the parcel, as shown on the records of the county recorder.

B. Collection.

1. In the event partial payment is made on a combined bill, the payment shall be applied first to franchise fees due, and then to each service on a pro rata basis.

2. In the event of delinquency, fees and charges levied in accordance herewith shall be a debt due the city. If this debt is not paid within thirty days after billing, it shall be deemed delinquent ~~and subject to recovery in a civil action and/or said.~~ The department shall have the right to terminate water, and sewer and other city services to the premises to enforce payment. Any uncollected amount due from the person or persons who own the parcel on any inactive, terminated or discontinued account may be transferred to any active account under the same person's or persons' name(s) and, upon failure to pay such bill after at least five days' prior written notice, water and other city services to that account and parcel may be discontinued.

3. ~~Restoration of Service.~~ Water, sewer, garbage and storm sewer service shall not be restored until all charges have been paid in full.

4. ~~C. Storm Water Sewer Utility Enterprise Fund. There is created the stormwater sewer utility enterprise fund.~~ All funds received from such storm sewer service charges shall be placed in the storm water sewer enterprise fund and ~~left~~ kept separate and apart from all other city funds. The collection, accounting and expenditure of all ~~stormwater~~ storm water sewer utility funds shall be in accordance with existing fiscal policy of the city.

SECTION 15. Section 17.16.040(B) is hereby renumbered as Section 17.81.400(A), and new Sections 17.81.400 (B), (C) and (D) are adopted, to read as follows:

17.81.400 Storm Water Impact Fee.

17.16.040(B)-A. A fee equal to three hundred fortyseveny-threefour dollars (\$343374.00) for each one-fourth (1/4) acre or portion thereof shall be imposed on all new development within city boundaries for storm water improvements.

B. Such fee shall be paid prior to city issuance of a building permit.

C. All storm water improvements to be maintained by the city shall be installed in the public right of way, or on other property owned by the city or with respect to which the city has all necessary easements, shall be subject to approved by the director as to materials, design and construction, and shall be under the director's exclusive control. All excavation and other permits necessary shall be

obtained at the expense of the applicant. All facilities not accepted by the city as part of the storm water sewer system shall be maintained by the property owners.

D. All storm water sewer facilities shall be constructed at the expense of the person, persons or corporation seeking the building permit, without special taxes being levied to pay for the same. All storm water sewer facilities shall be extended, at minimum, to the far end of the lot being serviced. All roads shall be subgraded prior to installation of the storm water sewer facilities.

SECTION 16. Section 17.16.040 is hereby amended to read as follows:

17.16.040 Water Connection Fees and Certain Connection Requirements.

A. \* \* \*

~~B. A fee equal to three hundred forty-three dollars (\$343.00) for each one-fourth (1/4) acre or portion thereof shall be imposed on all new development within city boundaries for storm water improvements.~~

CB. When a residential building is demolished and the existing service is reused for a replacement structure within five (5) years after demolition, no new connection fees will be charged. If the meter size is increased, a credit shall be given in the amount of the previously paid connection fee. After five (5) years from date of demolition, the property owner will be required to pay a new meter connection fee.

DC. When a commercial building, such as a hotel, motel, industrial building, etc., is demolished the water connection fee shall be based and charged on the new additional use pursuant to subsection A of this section. After five (5) years from the date of demolition, the property owner will be required to pay a new water connection fee.

ED. All connection fees shall be paid prior to city issuance of a building permit, except connection fees for water main extensions covered in section 17.16.300 of this chapter, which shall be paid pursuant to such section.

FE. In all cases, the pipe and type of materials to be furnished and installed in the public right of way, or per written agreement are to be maintained by the city, shall be approved by the public utilities director and shall be under the director's exclusive control. All excavation and other permits necessary shall be obtained at the expense of the applicant. Pipe and material outside the public way and pipe and materials installed as private pipelines or services shall be maintained by the property owners.

GF. All water main extensions shall be made at the expense of the person, persons or corporation petitioning for the extension, and shall be made without special taxes being levied to pay for the same. All water mains shall be extended, at minimum, to the far end of the lot being serviced. All roads shall be subgraded prior to installation of the public utilities facilities.

HG. Additional charges will be imposed for the cost, installation, and inspection of meters. Said fees will be fixed and charged as determined by the director of the department of public utilities on a cost basis.

SECTION 17. Section 17.75.090 is hereby renumbered as Section 17.81.400, and is amended to read as follows:

~~17.75.090~~17.81.500 Appeal of charges.

A. Those single-family and duplex parcels larger than .25 gross acres, but having less than three thousand square feet of impervious surface, may request a reduction of ~~their~~the charge to the tier-one level of three dollars per month.

B. Any owner or person who considers the city's ~~stormwater~~storm water charge as applied to their parcel owned by such person to be inaccurate, or who otherwise disagrees with the utility rate determination, may apply to the director for a service charge adjustment. Such a request shall be in writing and state the grounds for such an appeal. The director shall review the case file and determine whether an error was made in the calculation or application of the ~~fee~~charge and make an adjustment to the charge, if necessary, to provide for proper application of the city's rates and charges pursuant hereto. In all cases, the decision of the director shall be final unless appealed.

C. Any appeal ~~under this chapter~~of the amount billed under this ordinance ~~shall~~ be filed in writing with the director no later than twenty days after ~~said~~the billing. Any subsequent appeal shall be brought within twenty days after the date of the appealed decision.

D. Appeal of decisions made by the director may be brought before the public utilities advisory committee (PUAC), ~~where~~which may reevaluate the issue raised in the appeal. Decisions of the PUAC shall be final and conclusive.

E. Nothing in this ~~chapter~~ordinance shall be construed to grant a right to judicial review which does not otherwise exist at law.



SECTION 18. There are hereby enacted new Sections 17.84.100 through 17.84.800, to read as follows:

17.84.100 Prohibited Discharges and Connections.

Except as authorized by this ordinance, or by applicable federal or State law, it shall be unlawful to:

(i) make any discharge for which a discharge permit is required, without first obtaining a discharge permit;

(ii) make any discharge under a discharge permit in violation of the terms and conditions of such discharge permit, or otherwise violate the terms and conditions of a discharge permit; or

(iii) construct, use, maintain or allow to remain in place an illicit connection, whether or not the connection was permissible under law or practices applicable or prevailing at the time of connection.

17.84.200 Preventing Accidental Discharge. Any person conducting an activity which can reasonably be anticipated to create the risk of a prohibited discharge shall provide adequate protection against accidental discharge through the use of structural and non-structural BMPs. Such BMPs include, but are not limited to (i) implementing procedures or practices which tend to reduce the likelihood of an accidental discharge, and (ii) installing structures or facilities designed to prevent such accidental discharge. BMPs to prevent an accidental discharge shall be provided and maintained at the person's own cost and expense. Failure to provide or maintain such BMPs, or any discharge resulting from such failure, shall be considered a violation of this ordinance.

17.84.300 City Discharge Permit.

A. Any person required to obtain an NPDES or UPDES permit in connection with storm water discharges associated with industrial activity, including small construction activity, or to operate under authority of such a permit, as required by the applicable provisions of the Clean Water Act and/or the Water Quality Act shall (i) obtain such permit as required and comply with all provisions of such permit and, in addition (ii) shall obtain a city discharge permit from the department and comply with the provisions thereof.

B. The term of the city's discharge permit shall be concurrent with the applicable NPDES or UPDES permit.

C. Persons required to obtain a city discharge permit pursuant to this section must file an application for a first-time city discharge permit within 60 days after the effective date of this ordinance.

D. No person may commence industrial activity, including small construction activity, until a city discharge permit required by subsection (A) above has been issued by the department. The city shall not issue a building permit for any project constituting industrial activity, including small construction activity, until a city discharge permit has been issued.

E. The director may include in a city discharge permit any and all reasonable requirements necessary to prevent a prohibited discharge to the storm water sewer system, including requirements to control erosion and sediment, waste such as discarded building materials, concrete truck wash out, chemicals, litter and sanitary waste, or any other pollutant, that may cause adverse impacts to water quality.

#### 17.84.400 City Discharge Permit Application Process.

A. An application for a city discharge permit shall be submitted in writing to the director, and shall include, at a minimum, the following information: (i) the name and mailing address of the applicant, (ii) the location of discharge, (iii) the nature and general description of the activity giving rise to the discharge or potential discharge, (iv) A copy of the applicant's application for an NPDES permit, and (v) any other information reasonably requested by the director. The city anticipates that a full and complete application for an NPDES or UPDES permit, including all attachments, may be sufficient to satisfy these requirements.

B. The director may charge an application fee in an amount reasonably determined by the director to be sufficient to recoup the costs of the application process, but not to exceed \$125.

C. Within five (5) days after submission of a completed application to the director, the director shall evaluate the application and either approve or deny the application. If approved, the city discharge permit issued by the director shall be accepted in writing by the applicant.

#### 17.84.500 Inspection Right of Entry.

A. As a condition to the issuance of a city discharge permit, all applicants shall grant the director reasonable access to all relevant parts of the premises for the purposes of inspection, sampling, examination, copying of records that must be kept under the conditions of any discharge permit, monitoring compliance with all discharge permits, and performing any additional duties as defined by State and federal law. Reasonable access means, at a minimum, access during normal business hours, without prior notice, to all portions of a parcel and the improvements thereon which may contribute to a storm water discharge, subject only to bona fide safety or security precautions. Each city discharge permit shall contain provisions granting the city appropriate inspection rights. If the applicant has bona fide safety or security measures in

force, the applicant shall make the necessary arrangements to allow prompt access by personnel from the city or its designated enforcement agent.

B. The director shall have the right to set up on any operator's property or any other representative location such devices as are deemed necessary to conduct sampling, inspection, compliance monitoring and/or metering of the facility's discharges.

C. The director may require the operator to install sampling and monitoring equipment at the operator's expense. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the operator, at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the area or facility to be inspected or sampled shall, unless part of a BMP, be promptly removed by the operator at the written or verbal request of the director. The costs of providing such safe and easy access shall be borne by the operator.

E. The director's request for reasonable access to a facility for the purposes of conducting any activity authorized or required by this ordinance shall not be unreasonably delayed by an operator.

#### 17.84.600 Requirement for Use of Best Management Practices.

A. The director may adopt policies and procedures requiring BMPs for any activity, operation, or facility which may cause or contribute to a prohibited discharge.

B. Any person responsible for a parcel which is, or may become, the source of a prohibited discharge shall be required to implement, at said person's expense, additional structural and non-structural BMP's to prevent a prohibited discharge.

C. Compliance with all terms and conditions of a valid NPDES or UPDES permit shall be deemed compliance with all similar requirements of this Section.

#### 17.84.700 Watercourse Protection.

Every person owning or occupying a parcel through which a watercourse passes shall keep and maintain that portion of the watercourse within such parcel free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, such person shall maintain existing privately-owned structures within or adjacent to the watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. It shall be a violation of

this ordinance to make a prohibited discharge to a watercourse, unless authorized by a city discharge permit.

17.84.800 Accidental Discharges.

A. This Section shall apply to any person responsible for a facility, operation or parcel, or responsible for emergency response for a facility, operation or parcel, whether or not a discharge permit is required to be obtained in connection with such facility, operation or parcel.

B. Notwithstanding other provisions of law, as soon as a person described in (A) above has information of any known or suspected release of materials which are resulting, or may result, in a prohibited discharge, such person shall take the following actions:

1. Such person shall take all necessary steps to ensure the recovery, containment and cleanup of such release.

2. Such person shall immediately notify the director of the incident by telephone. This notification shall be in addition to, and not in lieu of, any other notifications required under applicable law. The notification shall include location of the release, the type, concentration and volume of the material, and any corrective actions taken or planned.

3. Such person shall, within five (5) days following the incident, submit to the director a detailed written report describing the cause of the release and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the person of any expense, loss, damage or other liability which may be incurred as a result of the release, nor shall such notification relieve the person of any fines, civil penalties or other liability which may be imposed by this ordinance or other applicable law.

4. A notice shall be posted on the person's bulletin board or other prominent place advising employees of the incident, and of any possible dangers and safety precautions to be taken. Such notice shall also include recommended measures to prevent future releases.

C. Each person subject to this Section shall ensure that all employees are familiar with the requirements of this Section.

17.84.900 Release of Storm Water or Discharge Onto Other Property Prohibited.

It shall be unlawful to knowingly, intentionally or recklessly (i) release or direct the flow of storm water into any conveyance facilities, or onto any property, or (ii) make any discharge into any conveyance facilities or onto any property, without the legal right to do so. Violation of this Section shall constitute a class B misdemeanor.

SECTION 19. There are hereby enacted new Sections 17.87.100 through 17.87.950, to read as follows:

17.87.100 Notification of Violation.

Whenever the director finds a violation of this ordinance, the director may serve upon the responsible party a written notice of violation. Such written notice shall be served in person or by certified mail, return receipt requested. Within five (5) days after the receipt of such notice, an explanation for the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted by the responsible party to the director. Submission of this plan in no way relieves the responsible party of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

17.87.150 Consent Orders.

The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any responsible party who is responsible for noncompliance. Such orders will include specific action to be taken by the responsible party. Consent orders shall have the same force and effect as administrative orders issued pursuant to Sections 17.87.250 and 17.87.300, and shall be judicially enforceable.

17.87.200 Show Cause Hearing.

The director may order any responsible party suspected of causing or contributing to violations(s), to appear before the director and show cause why a proposed enforcement action should not be taken. Written notice shall be served on the responsible party, and shall specify the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the responsible party show cause why this enforcement action should not be taken. The notice shall be served in person on any authorized representative of the responsible party, or by certified mail, return receipt requested, at least seven (7) days prior to the hearing. Whether or not the responsible party appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other actions against the responsible party.

17.87.250 Compliance Orders.

When the director finds a violation or continuing violation, he may issue an order to the responsible party directing that the responsible party come into compliance within thirty (30) days, or such shorter period as the director may

determine. If the responsible party does not come into compliance within the time specified, the director may take any remedial action authorized by this ordinance. The issuance of an order pursuant to this Section shall not be a prerequisite to emergency remedial action deemed necessary by the director. Compliance orders may also contain other requirements to address noncompliance, including additional self-monitoring, and BMPs designed to minimize the amount of pollutants discharged to the storm water sewer system. A compliance order may not extend a federal standard or requirement, nor does a compliance order release the responsible party from State or federal liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the responsible party.

17.87.300 Cease and Desist Orders.

When the director finds a violation, or finds that the responsible party's past violations are likely to recur, the director may issue an order to the responsible party directing it to cease and desist all such violations and directing the responsible party to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations, implementing additional BMPs, and/or terminating the discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the responsible party.

17.87.350 Administrative Fines; Costs of Remediation.

A. Notwithstanding any other Section of this ordinance, any responsible party may be fined in an amount not greater than ten thousand dollars (\$10,000) per violation, per day, as determined by the director in his reasonable discretion; provided, however, that a any fine based on a violation of Section 17.84.900 shall not exceed the fine imposed for a class B misdemeanor.

B. The director may charge a responsible party for the costs of preparing administrative enforcement actions, such as notices and orders, which charge may be assessed whether or not a fine under subsection (A) of this Section is also imposed.

C. The director may also charge a responsible party for the actual costs and expenses incurred by the city to respond to any discharge, and all remedial action taken. Such charges may include all labor, equipment and materials used by the city.

D. Assessments for fines and/or costs may be added to the responsible party's next scheduled storm water utility service charge, and the director shall

have such other collection remedies as may be available for other service charges and fees.

E. Unpaid charges, fines, assessments and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance. Thereafter, interest on any unpaid balances, including penalties, shall accrue at a rate of one percent (1%) per month. A lien against the responsible party's property may be sought for unpaid charges, fines, and penalties.

F. Responsible parties desiring to dispute such fines or assessments must file a written request for the director to reconsider the fine or assessment, along with full payment thereof, within thirty (30) days after being notified of the fine or assessment. The director shall convene a hearing on the matter within fourteen (14) days after receiving the request from the responsible party. In the event the director determines that all or any portion of the fines, assessments or charges were improper, such amounts paid by the responsible party to the director shall be returned to the responsible party, without interest.

G. The imposition of fines, assessments or other charges shall not be a prerequisite for taking any other action against the responsible party.

#### 17.87.400 Emergency Suspensions.

The director may order the immediate suspension or shutoff of a responsible party's discharge or storm water sewer system access (after informal notice to the responsible party), whenever such suspension or shutoff is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause a risk of an imminent or substantial:

- a. damage to the storm water sewer system or harm to the receiving waters,
- b. endangerment to the health, safety or welfare of any residents served by the storm water sewer system,
- c. interference with the operation of the storm water sewer system,
- d. violation of the City's UPDES permit, or
- e. endangerment to the environment.

Any responsible party notified of a suspension of its discharge shall immediately stop or eliminate its contribution or discharge. In the event of a responsible party's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the storm water sewer system connection, to enforce such order. The director shall allow the responsible party to recommence its discharge when

the responsible party has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings set forth in Section 17.87.450 are initiated against the responsible party. A responsible party that is responsible in whole or in part, for any discharge presenting imminent endangerment, shall submit to the director a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, prior to the date of any show cause or termination of discharge hearing under Sections 17.87.200 and 17.87.450. Nothing in the Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

#### 17.87.450 Termination of City Discharge Permit.

Violation by the holder of a city discharge permit of any of the provisions thereof, or of any of the provisions of this ordinance, shall be grounds for termination and revocation of such permit by the director. The permit holder shall be notified of the proposed termination of a discharge permit and be offered an opportunity to show cause under Section 17.87.200 hereof why the proposed action should not be taken.

#### 17.87.500 Injunctive Relief.

Whenever the director finds a violation or continuing violation, the director may petition any court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the discharge permit, order, rule, regulation or other requirement. In addition, the director may recover reasonable attorney fees, court costs, and other expenses of litigation by appropriate legal action against the responsible party for any violation. Such other action as appropriate for legal and/or equitable relief may also be sought by the director. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a responsible party.

#### 17.87.550 Civil Fine Pass Through Recovery.

In the event that a responsible party discharges pollutants which causes the city to violate any conditions of its UPDES permit and the city is fined by the EPA, the State of Utah or the county for such violations, then the responsible party shall be fully liable to the total amount of the fines and civil penalties assessed against the city, including the administrative costs incurred.

#### 17.87.600 Referral to State of Utah For Action.

The director may refer to the State criminal violations of any discharge permit conditions. The Utah Attorney General's office may offer the county the option of prosecuting the violator. Should the county decline, the State, in its discretion, may initiate appropriate criminal action. The director may assist the



Utah Attorney General's office or the county with appropriate support for the action taken.

17.87.650      Performance Bonds.

The director may decline to reissue a city discharge permit to any responsible party which has caused a violation, unless such responsible party first files a satisfactory bond, payable to the director, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.

17.87.700      Liability Insurance.

The director may decline to reissue a city discharge permit to any responsible party which has caused a violation, unless the responsible party first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the storm water sewer system, and indemnify and hold the city harmless from any future violation.

17.87.750      Water Supply Severance.

Whenever the director finds that a person has violated or continues to violate the provisions of this ordinance, or of any discharge permit, or order, rule or regulation issued or promulgated hereunder, water service to the person may be discontinued. Service will only recommence, at the person's expense, after it has satisfactorily demonstrated its ability to comply.

17.87.800      Public Nuisances.

Any violation of this ordinance is hereby declared a public nuisance and shall be corrected or abated as directed by the director. In addition to any other powers granted the director under this ordinance, the director shall be entitled to exercise all of the powers and remedies set forth in the provisions of the Salt Lake City Code governing nuisances, and shall be entitled to reimbursement for any costs incurred in removing, abating or remedying such nuisance.

17.87.850      Contractor Listing.

Responsible parties who have caused or significantly contributed to a violation:

A. Are not eligible to receive a contractual award for the sale of goods or services to the city as long as such violation is continuing and/or any fines hereunder remain unpaid, or remedial action required hereunder remains unperformed; and

B. Existing contracts for the sale of goods or services to the city may be terminated at the discretion of the mayor.

17.87.900 Nonexclusive Remedies.

The provisions of this ordinance are not exclusive remedies. The director reserves the right to take any, all, or any combination of these actions against a noncompliant responsible party. Enforcement of violations will generally be in accordance with the department's enforcement plan. However, the director reserves the right to take other action against any responsible party when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant responsible party. These actions may be taken concurrently.

17.87.950 Compensatory Actions.

In lieu of enforcement proceedings, penalties and remedies authorized by this ordinance for a violation of a storm water sewer discharge permit or requirement, the director may impose alternative compensatory actions such as storm drain stenciling, watercourse cleanup, and similar community service; or may impose education at the responsible party's expense.

SECTION 20. There are hereby enacted new Section 17.91.100 through 17.91.200, to read as follows:

17.91.100 Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance, or the application thereof to any person, establishment or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

17.91.200 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor prohibited discharge. Review and approval of structures, facilities, and operating procedures shall not relieve a person from the responsibility of modifying a facility or process as necessary to meet the requirements hereof.

SECTION 21. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_\_ day of

\_\_\_\_\_, 2007.

CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 4/25/07  
By ERV

(SEAL)

Bill No. \_\_\_\_\_ of 20067.  
Published: \_\_\_\_\_.

